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May 22, 2017

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth St, S.W.
Washington, DC 20554

RE: Expanding the Economic and Innovation Opportunities of Spectrum
Through Incentive Auctions, GN Docket No. 12-268

Dear Ms. Dortch:

On May 23, 2017, Michael Gravino, Director of the LPTV Spectrum Rights Coalition, LLC (COALITION), submitted the following email to Jean Kiddo (Chair, IATF), Hillary DeNigro (Deputy Chair, IATF), Barbara Kreisman (Chief, Video Division), and Hossein Hashemzadeh (Deputy Video Division Chief):

Dear IATF:

Our Coalition received yesterday, from a member, a copy of the first emails by T-Mobile being sent out to LPTV and translators operators which are in Phase Zero areas. (Phase Zero are those DMA and PEA which did not have from UHF 38-51 any moving primaries, just LPTV and translators.)

The T-Mobile email is giving the heads up to licensees that T-Mobile wants to start to test beginning in Q4 2017. Since this date is well before any displacement channels are either selected or awarded, we could see not just 45+ stations go dark, but entire communities. This is totally unacceptable, and this issue has never been addressed by the rulemakings, nor publicly studied by the FCC.

The main problem is the unharmonized timeline, which does not give the LPTV or translator licensee their basic due process rights as allowed by the Communications Act, and reaffirmed by the auction legislation, and all subsequent FCC rulemakings, except that is for the Commencement of Operations rules.

An FCC flyer was handed out at the National Translator Association show this past weekend, which describes a process for applying for a temporary channel, but this does not apply to Phase Zero, only the process for the 10 FCC phases. I quote:

Q: Maybe we can use the temporary channel STA process, but speed it up so that
that
may I operate a temporary facility on my proposed new channel while my
application is pending?

A: No. But if your application is processed and placed on a proposed to grant list and does not receive any petitions to deny, we will allow you to operate on an STA for your proposed new channel while you await the final processing of your application.

Now this is all well and good for FCC Phases 1-10, as LPTV and translator licensees will have plenty of time for their due process to occur, but does NOT work for Phase Zero. This is because the special displacement window is AFTER the displacement potentially takes place, and denies the LPTV and translator licensee their due process rights.

POTENTIAL SOLUTIONS

There are three solutions as I see them:

1) T-Mobile and all other winning bidders agree not to displace in Phase Zero DMA until well after the already scheduled special displacement window. They will not like this, and will not agree to this. So this is a non-starter. They are not bad actors in this situation, just using the rules as approved.

2) Since all Phase Zero DMA and PEA do not have any moving primaries from 2-36, nor auction displacements of primaries from 51-38, then the TV band 2-36 is "fixed" and the rules do not allow any movement nor modification by primaries, except if they are affected by adjacent market channel changes, or linked daisy chains. The FCC should immediately study this. And it should then be ok for an additional special filing window to be allowed for only Phase Zero auction (51-38) displacements. It can provide for temporary channels to be selected asap, and that they can move quickly so that they will not go dark. Again, this is not a problem in all other phases as the displacement occurs after the special displacement window.

3) Ignore the Phase Zero problem, and force us to file to stop the entire repack until the problem is fixed.

The Phase Zero problem is specifically because the FCC did not study and publish

the impacts to LPTV and translators, and as such, did not anticipate Phase Zero.

There are top four networks, PBS channels, and numerous other channels as we have already identified and shown to the FCC and the IATF. LPTV and translator due process rights, as protected by the auction legislation, and reaffirmed in the rulemaking, needs to be maintained in Phase Zero. You can not displace until LPTV and translators have had an opportunity to file for and receive in a displacement window their new channels.

Our Coalition will, after the Memorial Day break, be prepared to file to stop the repack process, until such time that a solution to the Phase Zero problem is found and is implemented. Going dark without due process is not an acceptable path forward. Fixing this problem will not slow down the winning bidders and their roll outs, and will not provide any undue advantage to anyone. But not fixing it, could put the entire repack timeline in jeopardy.

Respectfully submitted,

Respectfully submitted,

_____/signature/_____

Michael Gravino

Director